

I.A.R. 40. Taxation of Costs

Idaho Appellate Rule 40. Taxation of Costs.

(a) Costs to Prevailing Party. Costs shall be allowed as a matter of course to the prevailing party unless otherwise provided by law or order of the Court.

(b) Items of Costs. Costs shall, unless otherwise ordered, include the following items:

(1) Filing fees.

(2) Cost of reporter's transcript including the cost of computer-searchable disks filed with the Supreme Court under Rule 26.1(c), but excluding the cost of all other disks.

(3) Cost of clerk's or agency's record.

(4) Cost for the production of all appellant's briefs, respondent's briefs, reply briefs and briefs in support of or in opposition to petitions for rehearing or review, including covers but excluding appendixes, at the rate of \$6.00 per page. Recovery of this cost applies to only the original briefs and does not include copies.

(5) Cost of premiums of a supersedeas bond, unless the party taxed with costs had agreed in writing, within seven (7) days of the filing of the notice of appeal, not to execute pending appeal as provided in Rule 16(b).

(c) Memorandum of Costs. Within 14 days of the filing and announcement of the opinion on appeal, whether or not a petition for rehearing or petition for review is filed, any party who claims costs shall file with the Court and serve upon all adverse parties a memorandum of costs, itemizing each claimed expense. A memorandum of costs mailed to the Court shall be deemed filed upon the date of mailing. Failure to file a memorandum of costs within the period prescribed by this rule shall be a waiver of the right to costs.

(d) Objections to Costs. No later than fourteen (14) days after the date of service of the memorandum of costs, any party may object to the claim for costs of another party by filing and serving on the adverse party an objection to part or all of such costs, stating the reasons in support thereof. An objection to costs shall be deemed filed upon mailing and shall be heard and determined by the Court as an objection to the application for costs.

(e) Number of Copies. An original and six copies of the memorandum of costs, objections to costs, and briefs in support of or in opposition thereof shall be filed with the Clerk of the Supreme Court.

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(f) Clerk to Insert Costs in Remittitur. The Clerk of the Supreme Court shall prepare an itemized statement of costs taxed in the Supreme Court and insert the same in the remittitur. If the remittitur has been issued before the final determination of costs, or any amendment thereto, an itemized statement of costs allowed shall be forwarded by the Clerk of the Supreme Court to the district court or administrative agency as soon as it is available and shall then be added to the judgment or order. The payment of costs on appeal shall be enforced in the district court or administrative agency.

(Adopted March 25, 1977, effective July 1, 1977; amended March 30, 1984, effective July 1, 1984; amended March 20, 1985, effective July 1, 1985; amended March 28, 1986, effective July 1, 1986; amended March 20, 1991, effective July 1, 1991; amended January 30, 2001, effective July 1, 2001.)

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